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GOVERNMENT OF GOA, DAMAN AND DIU

GOVERNMENT OF GOA, DAMAN  
AND DIU

Law Department

Legal Affairs Branch

## Notification

LD/1/9/85-(D)/Part-File

The Unit Trust of India (Amendment) Act, 1985 (63 of 1985) and the Citizenship (Amendment) Act, 1985 (65 of 1985), which were passed by Parliament and assented to by the President of India on 7th December, 1985 and published in the Gazette of India, Extraordinary, Part II, Section 1 dated 7-12-1985, are hereby republished for the general information.

B. S. Subbanna, Under Secretary to the Government of Goa, Daman and Diu.

Panaji, 9th April, 1986.

## The Unit Trust of India (Amendment) Act, 1985

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ACT

Further to amend the Unit Trust of India Act, 1963.

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Unit Trust of India (Amendment) Act, 1985.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Amendment of section 2.*—In section 2 of the Unit Trust of India Act, 1963 (hereinafter referred to as the principal Act),—

(a) after clause (cb), the following clause shall be inserted, namely:—

“(cc) “General Insurance Corporation” means the General Insurance Corporation of India formed under section 9 of the General Insurance Business (Nationalisation) Act, 1972;”

57 of 1972

(b) after clause (f), the following clause shall be inserted, namely:—

“(fa) “public financial institution” means every financial institution, other than the Trust, specified by or under section 4A of the Companies Act, 1956;”

1 of 1956

(c) for clause (i), the following clause shall be substituted, namely:—

“(i) “security” means —

(a) any share, stock, bond, debenture or debenture stock, of any body corporate;

(b) any unit or sub-unit issued by, or other participation in a unit scheme framed by, any body or authority (not being the Trust) outside India or a mutual fund established outside India;

and includes —

(i) a government security as defined in section 2 of the Public Debt Act, 1944;

18 of 1944

(ii) a savings certificate to which the Government Savings Certificates Act, 1959 applies;

46 of 1959

(iii) any security issued by any local authority in India, or by the Government of, or a local authority in, any such country outside India as may be approved by the Reserve Bank; and

(iv) any foreign security as defined in section 2 of the Foreign Exchange Regulation Act, 1973, as may be approved by the Reserve Bank;”

46 of 1973

3. *Amendment of Section 4.*—In section 4 of the principal Act, in sub-section (5), for the words “it may refund the whole or any part of such capital”, the words “the Board may, and if the Central Government being of like opinion so directs, the Board shall, refund the whole or as the case may be so much of such capital as is in excess of its requirements” shall be substituted.

4. *Insertion of new section 14A.*—After section 14 of the principal Act, the following section shall be inserted, namely:—

“14A. *Emergency powers of the whole-time Chairman.*—If the Chairman, whose appointment is whole-time, is of opinion that circumstances exist

which render it necessary for him to take immediate action in respect of any matter which is within the competence of the Board and that the interest of the Trust may be prejudicially affected if such action is deferred until after the next meeting of the Board, then, notwithstanding anything contained in clause (c) of sub-section (2) of section 14, the Chairman may take such action in respect of that matter as he deems necessary and for such purpose, he may exercise all powers and do all acts and things which may be exercised or done by the Board, but in every such case, he shall, as soon as may be after the action is taken, make a written report to the Board containing a statement of the action taken and the circumstances under which it was taken."

5. *Substitution of new section for section 19.* — For section 19 of the principal Act, the following section shall be substituted, namely: —

'19.(1) Subject to the provisions of this Act and the regulations made under section 43, the Trust may carry on and transact any of the following kinds of business in India, namely:—

(1) selling and purchasing units;

(2) investing in, and acquiring, holding or disposing of, securities and exercising and enforcing, all powers and rights incidental thereto including protection or realisation of such investment and the taking over of the administration of any property offered as security for such investment;

(3) granting of loans and advances upon the security of any movable or immovable property or otherwise;

(4) accepting, collecting, discounting, rediscounting, purchasing, selling or negotiating or otherwise dealing with, any bills of exchange, hundies, promissory notes, coupons, drafts, bills of lading, railway receipts, warehouse receipts, documents of title to goods, warrants, certificates, scrips and other mercantile instruments;

(5) purchasing, selling or issuing participation certificates in relation to any loan or advance granted by any public financial institution or scheduled bank or such other institution as may be prescribed;

(6) keeping money on deposit with companies or other bodies corporate, scheduled banks or such other institutions as may be prescribed;

(7) investing in any special paper or security floated by the Central Government or the Reserve Bank or by any such foreign government or foreign bank as may be prescribed;

(8) formulating in relation to any unit scheme, —

(a) savings and life insurance plan or plans under which a person may acquire an interest in units in association with or as the agent of, the Life Insurance Corporation or the Central Government, but not including the life insurance business;

(b) savings and insurance plan or plans under which a person may acquire an interest in units in association with or as the agent

of, the General Insurance Corporation but not including the general insurance business; or

(c) any other plan or plans, under which a person may acquire an interest in units;

(9) acquiring immovable property or any interest therein, the development (including construction) and sale of such property and the rendering of financial and other assistance to any person for the acquisition of any immovable property or any interest therein and for the development (including construction) of such property;

(10) providing leasing and hire purchase finance to persons, companies, and other bodies corporate;

(11) providing merchant banking and investment advisory services;

(12) extending investment or fund or Portfolio management services to persons resident outside India;

(13) opening of an account or the making of an agency arrangement with a bank incorporated outside India;

(14) buying or selling of, or entering into such other dealings in, foreign exchange, as may be necessary for the discharge of its functions;

(15) doing any other kind of business connected with mobilisation of savings or investments which the Central Government may authorise;

(16) generally, doing all such acts and things as may be incidental to or consequential upon the discharge of its functions under this Act.

*Explanation.* — For the purposes of clause (12) and clause (14), the expressions "persons resident outside India" and "foreign exchange" shall have the meanings respectively assigned to them in section 2 of the Foreign Exchange Regulation Act; 1973.

46 of 1973

(2) Subject to the provisions of this Act and the regulations made under section 43, the Trust may carry on outside India also any of the kinds of business mentioned in clauses (1), (2), (4), (6), (7), sub-clause (c) of clause (8) and clauses (11), (12), (13) and (15) of sub-section (1).

6. *Insertion of new section 19B.* — After section 19A of the principal Act, the following section shall be inserted, namely: —

'19B. *Special provision for enforcement of claim by the Trust.* — (1) Where a company or other body corporate, in breach of any agreement, makes any default in repayment of any loan or advance or any instalment thereof, or in meeting its obligations or otherwise fails to comply with the terms of its agreement with the Trust, then, without prejudice to the provisions of section 69 of the Transfer of Property Act, 1882, any officer of the Trust generally or specially authorised

4 of 1882.

by the Trust in this behalf may apply to the Court for one or more of the following reliefs, namely: —

(a) for an order for the sale of the property pledged, mortgaged, hypothecated or assigned to the Trust as security for the loan or advance, or

(b) for transferring the management of the company or other body corporate to the Trust, or

(c) for an *ad interim* injunction where there is apprehension of the machinery or the equipment being removed from the premises of the company or other body corporate without the permission of the Trust.

(2) An application under sub-section (1) shall state the nature and extent of the liability of the company or other body corporate to the Trust, the grounds on which it is made and such other particulars as may be prescribed.

(3) When the application is for the reliefs mentioned in sub-clauses (a) and (c) of sub-section (1) the Court shall pass an *ad interim* order attaching the security or so much of the property of the company or other body corporate as would on being sold realise in its estimation an amount equivalent in value to the outstanding liability of the company or other body corporate to the Trust together with the costs of the proceedings taken under this section with or without an *ad interim* injunction restraining the company or other body corporate from transferring or removing its machinery or equipment.

(4) Where the application is for the relief mentioned in sub-clause (b) of sub-section (1) the Court shall grant an *ad interim* injunction restraining the company or other body corporate from transferring or removing its machinery or equipment and issue a notice calling upon the company or other body corporate to show cause on a date to be specified in the notice why the management of the company or other body corporate should not be transferred to the Trust.

(5) Before passing any order under sub-section (3) or sub-section (4), the Court may, if it thinks fit, examine the officer making the application.

(6) At the same time as it passes an order under sub-section (3), the Court shall issue to the company or other body corporate a notice accompanied by copies of the order, the application and the evidence, if any, recorded by it calling upon the company or other body corporate to show cause on a date to be specified in the notice why the *ad interim* order of attachment should not be made absolute or the injunction confirmed.

(7) If no cause is shown on or before the date specified in the notice under sub-sections (4) and (6), the Court shall forthwith make the *ad interim* order absolute and direct the sale of the attached property or transfer the management of the company or other body corporate to the Trust or confirm the injunction.

(8) If cause is shown the Court shall proceed to investigate the claim of the Trust and the provisions of the Code

of Civil Procedure, 1908, shall as far as practicable apply to such proceedings.

(9) On an investigation made under sub-section (8) the Court shall pass an order —

(a) confirming the order of attachment and directing the sale of the attached property; or

(b) varying the order of attachment so as to release a portion of the property from attachment and directing the sale of the remainder of the attached property; or

(c) releasing the property from attachment, if it is satisfied that it is not necessary in the interest of the Trust; or

(d) confirming or vacating the injunction; or

(e) transferring the management of the company or other body corporate to the Trust or rejecting the claim made in this behalf:

Provided that when making any order under clause (c), the Court may make such further orders as it thinks necessary to protect the interests of the Trust, and may apportion the costs of the proceedings in such manner as it thinks fit:

Provided further that unless the Trust intimates to the Court that it will not appeal against any order releasing any property from attachment, such order shall not be given effect to until the expiry of the period fixed under sub-section (12) within which an appeal may be preferred, or if an appeal is preferred, unless the Court empowered to hear appeals from the decisions of the said Court otherwise directs until the appeal is disposed of.

(10) An order of attachment or sale of property under this section shall be carried into effect as far as may be practicable in the manner provided in the Code of Civil Procedure, 1908, for the attachment or sale of property in execution of a decree, as if the Trust were the decree-holder.

(11) An order under this section transferring the management of a company or other body corporate to the Trust shall be carried into effect, as far as may be practicable, in the manner provided in the Code of Civil Procedure, 1908 for the possession of immovable property or the delivery of movable property in execution of a decree, as if the Trust were the decree-holder.

(12) Any party aggrieved by an order under sub-section (7) or sub-section (9) may, within thirty days from the date of the order, appeal to the Court empowered to hear appeals from the decisions of the Court which passed the order and the appellate court may after hearing the parties pass such orders as it thinks proper.

(13) Nothing in this section shall be construed, where proceedings for liquidation in respect of the company or other body corporate have com-

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menced before an application is made under sub-section (1) as giving to the Trust any preference over the other creditors of the company or other body corporate not conferred on it by any other law.

(14) For the removal of doubts, it is hereby declared that any Court competent to grant an *ad interim* injunction under this section shall also have the power to appoint a receiver and to exercise all other powers incidental thereto.

(15) For the purpose of this section "Court" means the High Court within the local limits of jurisdiction,—

(i) the defendant or respondent, or where there is more than one defendant or respondent any one of them —

(1) has his registered office; or

(2) carries on the whole or part of his business,

at the time of the commencement of any legal proceedings, against him under this Act; or

(ii) the cause of action for such legal proceedings, wholly or in part, arises.

(16) The provisions of this section shall not apply to or in relation to any proceedings (whether by way of suits or appeals or other proceedings) under this Act pending before a District Judge or an Additional District Judge or a High Court at the commencement of the Unit Trust of India (Amendment) Act, 1985.

7. *Amendment of section 20.*—In section 20 of the principal Act, in sub-section (1), for the words "The Trust may borrow", the words "The Trust may borrow, whether in India or outside India," shall be substituted.

8. *Insertion of new section 20C.*—After section 20B of the principal Act, the following section shall be inserted, namely:—

"20C. *Power to transfer rights.*—The rights and interests of the Trust (including any other rights incidental thereto) in relation to any loan or advance granted, or any amount recoverable, by it may be transferred by the Trust, either in whole or in part, by the execution or issue of any instrument, or by the transfer of any instrument by endorsement or in any other manner in which the rights and interests in relation to such loan or advance may be lawfully transferred, and the Trust may, notwithstanding such transfer, act as the trustee within the meaning of section 3 of the Indian Trusts Act, 1882, for the transferee." 2 of 1882.

9. *Amendment of section 21.*—In section 21 of the principal Act,—

(a) in sub-section (1), for the words "unit schemes," the words "unit schemes, including one or more unit schemes for issuing units to persons resident outside India in such foreign currencies, as the Trust may deem fit." shall be substituted;

(b) in sub-section (2), for clause (a), the following clause shall be substituted, namely:—

"(a) the issue of units and the face value of each unit:

Provided that the face value of each unit shall, where such value is in Indian currency, be not less than ten rupees or more than one hundred rupees and where such value is in any foreign currency, be in multiples of ten;"

10. *Amendment of Section 25A.*—In section 25A of the principal Act, to sub-section (2), the following proviso shall be added, namely:—

"Provided that in relation to any year in which the Trust has declared a dividend of not less than ten per cent. on the unit capital the requirement as to distribution of not less than ninety per cent. of such income in such year as so reduced shall not apply."

11. *Amendment of section 43.*—In section 43 of the principal Act,—

(a) in sub-section (1), for the words "The Board may, with the previous approval of the Development Bank", the words "the Board, with the previous approval of the Development Bank, may, by notification in the Official Gazette," shall be substituted;

(b) in sub-section (2), for clause (i), the following clauses shall be substituted, namely:—

"(i) the institutions to which loans or advances may be granted or with which money may be kept in deposit;

(ia) special papers or securities floated by governments or banks in which investment may be made;

(ib) the particulars which may be included in an application under section 19B;"

(c) after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) Every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation."

The Citizenship (Amendment) Act, 1985

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ACT

further to amend the Citizenship Act, 1955.

Whereas for the purpose of giving effect to certain provisions of the Memorandum of Settlement

relating to the foreigners' issue in Assam (Assam Accord) which was laid before the Houses of Parliament on the 16th day of August, 1985 it is necessary to amend the Citizenship Act, 1955;

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Citizenship (Amendment) Act, 1985.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Insertion of new section 6A.*— In the Citizenship Act, 1955 (hereinafter 57 of 1955. referred to as the principal Act), after section 6, the following section shall be inserted, namely:—

“6A. *Special provisions as to citizenship of persons covered by the Assam Accord.*— (1) For the purposes of this section—

(a) “Assam” means the territories included in the State of Assam immediately before the commencement of the Citizenship (Amendment) Act, 1985;

(b) “detected to be a foreigner” means detected to be a foreigner in accordance with the provisions of the Foreigners Act, 1946 and the 31 of 1946. Foreigners (Tribunals) Order, 1964 by a Tribunal constituted under the said Order;

(c) “specified territory” means the territories included in Bangladesh immediately before the commencement of the Citizenship (Amendment) Act, 1985;

(d) a person shall be deemed to be of Indian origin, if he, or either of his parents or any of his grandparents was born in undivided India;

(e) a person shall be deemed to have been detected to be a foreigner on the date on which a Tribunal constituted under the Foreigners (Tribunals) Order, 1964 submits its opinion to the effect that he is a foreigner to the officer or authority concerned.

(2) Subject to the provisions of sub-sections (6) and (7), all persons of Indian origin who came before the 1st day of January, 1966 to Assam from the specified territory (including such of those whose names were included in the electoral rolls used for the purposes of the General Election to the House of the People held in 1967) and who have been ordinarily resident in Assam since the dates of their entry into Assam shall be deemed to be citizens of India as from the 1st day of January, 1966.

(3) Subject to the provisions of sub-sections (6) and (7), every person of Indian origin who—

(a) came to Assam on or after the 1st day of January, 1966 but before the 25th day of March, 1971 from the specified territory; and

(b) has, since the date of his entry into Assam, been ordinarily resident in Assam; and

(c) has been detected to be a foreigner;

shall register himself in accordance with the rules made by the Central Government in this behalf under section 18 with such authority (hereafter in this sub-section referred to as the registering authority) as may be specified in such rules and if his name is included in any electoral roll for any Assembly or Parliamentary constituency in force on the date of such detection, his name shall be deleted therefrom.

*Explanation.*— In the case of every person seeking registration under this sub-section, the opinion of the Tribunal constituted under the Foreigners (Tribunals) Order, 1964 holding such person to be a foreigner, shall be deemed to be sufficient proof of the requirement under clause (c) of this sub-section and if any question arises as to whether such person complies with any other requirement under this sub-section, the registering authority shall,—

(i) if such opinion contains a finding with respect to such other requirement, decide the question in conformity with such finding;

(ii) if such opinion does not contain a finding with respect to such other requirement, refer the question to a Tribunal constituted under the said Order having jurisdiction in accordance with such rules as the Central Government may make in this behalf under section 18 and decide the question in conformity with the opinion received on such reference.

(4) A person registered under sub-section (3) shall have, as from the date on which he has been detected to be a foreigner and till the expiry of a period of ten years from that date, the same rights and obligations as a citizen of India (including the right to obtain a passport under the Passports Act, 1967 and the obligations connected 15 of 1967. therewith, but shall not be entitled to have his name included in any electoral roll for any Assembly or Parliamentary constituency at any time before the expiry of the said period of ten years.

(5) A person registered under sub-section (3) shall be deemed to be a citizen of India for all purposes as from the date of expiry of a period of ten years from the date on which he has been detected to be a foreigner.

(6) Without prejudice to the provisions of section 8,—

(a) if any person referred to in sub-section (2) submits in the prescribed manner and form and to the prescribed authority within sixty days from the date of commencement of the Citizenship (Amendment) Act, 1985, a declaration that he does not wish to be a citizen of India, such person shall not be deemed to have become a citizen of India under that sub-section;

(b) if any person referred to in sub-section (3) submits in the prescribed manner and form and to the prescribed authority within sixty

days from the date of commencement of the Citizenship (Amendment) Act, 1985 or from the date on which he has been detected to be a foreigner, whichever is later, a declaration that he does not wish to be governed by the provisions of that sub-section and sub-sections (4) and (5), it shall not be necessary for such person to register himself under sub-section (3).

*Explanation.* — Where a person required to file a declaration under this sub-section does not have the capacity to enter into a contract, such declaration may be filed on his behalf by any person competent under the law for the time being in force to act on his behalf.

(7) Nothing in sub-sections (2) to (6) shall apply in relation to any person—

(a) who, immediately before the commencement of the Citizenship (Amendment) Act, 1985, is a citizen of India;

(b) who was expelled from India before the commencement of the Citizenship (Amendment) Act, 1985, 31 of 1946, under the Foreigners' Act, 1946.

(8) Save as otherwise expressly provided in this section, the provisions of this section shall have effect notwithstanding anything contained in any other law for the time being in force."

3. *Amendment of section 18.* — In section 18 of the principal Act, in sub-section (2), after clause (e), the following clause shall be inserted, namely:—

"(ee) the manner and form in which and the authority to whom declarations referred to in clauses (a) and (b) of sub-section (6) of section 6A shall be submitted and other matters connected with such declarations;"